

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

JOSEPH BARFIELD

**Plaintiff,**

V.

**PLANO HOUSING AUTHORITY;  
HELEN MACEY, in her official capacity as  
Executive Director; BRENDA McDONALD  
in her official capacity as Director of  
Resident & Real Estate Services; and  
WENDY ABEL, in her official capacity as  
Compliance/Hearing Officer,  
Defendants.**

**CASE NO. 4-11-cv-00206**

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On July 6, 2012, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Amended Motion for Summary Judgment (Dkt. 56) be GRANTED in part and DENIED in part and Plaintiff's Motion for Summary Judgment (Dkt. 62) be DENIED.

The court has made a *de novo* review of the objections raised by Plaintiff and is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit as to the ultimate findings of the Magistrate Judge. The court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this court.

Therefore, Plaintiff's Motion for Summary Judgment (Dkt. 62) is DENIED in its entirety. Defendants' Amended Motion for Summary Judgment (Dkt. 56) is GRANTED for Defendants as to the following of Plaintiff's claims: (G) Violation of 42 U.S.C. § 1437f and 24 C.F.R. § 982.202(d) Pursuant to 42 U.S.C. § 1983 (denial of voucher or other assistance to victim of domestic violence); (H) Violation of Title II of the Americans with Disabilities Act 42 U.S.C. §§ 12101, *et seq.*; (I) Violation of the Federal Fair Housing Amendments Act, 42 U.S.C. §§ 3601, *et seq.*; and (B) Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 5.903(f), Pursuant to 42 U.S.C. § 1983 (accessing criminal records without consent). Defendants' Amended Motion for Summary Judgment (Dkt. 56) is also GRANTED as to the claims against the individual defendants, and Plaintiff shall take nothing by his claims against Defendants Macey, McDonald and Abel in their official capacities.

Defendants' Amended Motion for Summary Judgment (Dkt. 56) is DENIED as to Defendant's claim that some of Plaintiff's allegations are barred by the statute of limitations, and that matter — in particular when any claims accrued — is reserved for trial. Defendants' Amended Motion for Summary Judgment (Dkt. 56) is also DENIED as to the following of Plaintiff's claims: (A) Violation of Plaintiff's Due Process Rights Under the Fourteenth Amendment Pursuant to 42 U.S.C. § 1983; (B). Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 5.903(f), Pursuant to 42 U.S.C. § 1983 (accessing criminal records without opportunity to dispute); (C) Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 982.552(c)(2), Pursuant to 42 U.S.C. § 1983 (failing to consider Plaintiff's and his children's disabilities); (D) Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 982.553(a)(2)(ii), Pursuant to 42 U.S.C. § 1983 (denial of voucher or other housing assistance for

impermissible reason); (E) Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 982.554(a) Pursuant to 42 U.S.C. § 1983 (failing to inform Plaintiff of right of review of notice of noneligibility); and (F) Violation of 42 U.S.C. § 1437d(k) and 24 C.F.R. § 982.554(b) Pursuant to 42 U.S.C. § 1983 (failing to afford Plaintiff review of denial). Defendant's counterclaims shall also proceed to trial.

**IT IS SO ORDERED.**

**SIGNED this the 1st day of August, 2012.**

  
RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE